REMARKS

Reconsideration of the above-identified patent application in view of the present amendment and the following remarks is respectfully requested.

The Office Action of August 3, 2007 rejected claims 1, 2, and 6 as being anticipated under 35 U.S.C. §102(b) by the following three references: Murata (U.S. Patent No. 4,051,764), Guttman (U.S. Patent No. 4,364,827), and Iijima (U.S. Patent No. 3,532,646). Claims 7 and 8 stand rejected as being obvious under 35 U.S.C. §103. It is respectfully acknowledged that claims 3-5 were indicated as being allowable if rewritten in independent form.

This amendment amends claims 1 and 3 and adds new claims 9-12. By this amendment, claim 3, which was indicated as being allowable, has been rewritten in independent form. Claims 4 and 5 depend from claim 3 and are allowable for at least the same reasons as claim 3. Therefore, allowance of claims 3-5 is respectfully requested.

Claim 1 has been amended to more clearly define the present invention and to replace "consisting of" with "comprising."

The rejection of claim 1 as anticipated by Murata, Guttman, and Iijima is respectfully traversed. Anticipation requires a single prior art reference that discloses each element of the claim. W.L. Gore & Associates v. Garlock, Inc., 220 UPSQ 303, 313 (Fed. Cir. 1983) *cert. denied* 469 U.S. 851 (1984). For a

reference to anticipate a claim, "[t]here must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." Scripps Clinic & Research Foundation v. Genentech Inc., 18 USPQ2d 1001, 1010 (Fed. Cir. 1991). None of Murata, Guttman, or Iijima discloses each element of claim 1. Specifically, claim 1 recites a flow control valve which is connected in the main duct downstream of the motor and is adapted for starting and stopping the motor and constant flow control of hydraulic fluid through the motor. None of Murata, Guttman, or Iijima discloses such a flow control valve.

In rejecting claim 1 on the basis of Murata, the Office Action references valves 32 and 33 of Murata as the claimed flow control valve. Valves 32 and 33, however, do not start and stop the motor nor do they provide constant flow control through the motor. For example, when hydraulic fluid flow is such that valve 33 is located downstream of the motor 25 in Murata, the motor 25 continues to operate as long as valve 26 provides fluid flow into line 27, as fluid exiting the motor passes over relief valve 39 and returns to the reservoir 22 when valve 33 restricts fluid flow to cause a pressure rise in line 28. Valve 32, when located downstream of the motor, operates in a similar manner. Thus, since Murata fails to disclose each feature of the flow control valve as set forth in claim 1, the rejection of claim 1 as anticipated by Murata is improper and should be withdrawn.

In rejecting claim 1 on the basis of Guttman, the Office Action refers to valve 78 as the claimed flow control valve. Again, valve 78 fails to start and stop the motor 26. Additionally, in Guttman, the rotation of the motor 26 (i.e., the stopping and starting of the motor in an opposite rotational direction, is controlled upstream of the motor 26 by high pressure acting through the sequencing valve 72 or 74 located upstream of the motor. Thus, Guttman also fails to disclose the valve as set forth in claim 1. Therefore, the rejection of claim 1 as anticipated by Guttman is improper and should be withdrawn.

The hydraulic circuit disclosed in Iijima also has the deficiencies set forth above with regard to Guttman. First, flow control valves 11 do not start and stop the motor 7. Second, starting and stopping of the motor 7 is controlled by a valve located upstream of the motor (valve 4_1), as opposed to downstream of the motor as set forth in claim 1. Since Iijima also fails to disclose the valve of claim 1, the rejection of claim 1 as anticipated by Iijima is improper and should be withdrawn.

Since claim 1 patentably distinguished from Murata, Guttman and Iijima, allowance of claim 1 is respectfully requested. Claims 2 and 6-8 depend from claim 1 and are allowable for at least the same reasons as claim 1.

New claim 9 also recites at least one valve located downstream of the motor and adapted to start and stop the motor as well as provide a constant flow control of the hydraulic fluid through the motor. Thus, new claim 9 is patentable

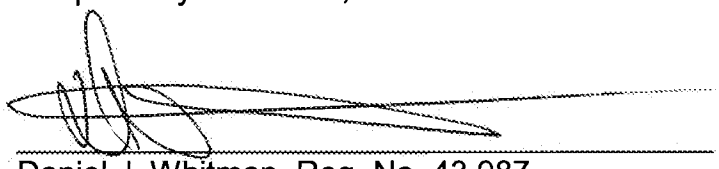
over Murata, Guttman, and Iijima and allowance of claim 9 is respectfully requested.

Claims 10-12 depend from claim 9 and are allowable for at least the same reasons as claim 9. Therefore, allowance of claims 10-12 is also respectfully requested.

In view of the foregoing, it is respectfully submitted that the above-identified patent application is in condition for allowance, and prompt notice to that effect is respectfully requested.

Should the Examiner wish to discuss any of the foregoing in more detail, the undersigned attorney would welcome a telephone call.

Respectfully submitted,



Daniel J. Whitman, Reg. No. 43,987
6035 Parkland Boulevard
Cleveland, OH 44124-4141
Telephone: 216-896-2049
Fax No.: 216-896-4027
E-mail: dwhitman@parker.com

Attorney for Applicant(s)

Attorney Docket No. 2802-521-002 US